

AGENDA ITEM #10

March 12, 2004

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Staff Report and Preliminary Staff Analysis on New General Plan for the
CITY OF OAKLEY, Contra Costa County
(For Public Hearing Only)

BACKGROUND:

The Delta Protection Act states that within 180 days of the adoption of the regional plan, all local governments shall submit to the Commission proposed amendments which will cause their general plans to be consistent with the criteria in Section 29763.5 with respect to land located within the Primary Zone.

The new City of Oakley was incorporated on July 1, 1999. The City adopted its new General Plan on December 16, 2002. The City continued with preparation of additional General Plan components through 2003.

REQUIRED FINDINGS:

The Commission shall approve the local general plan by a majority vote of the Commission membership (ten votes) after making all of the following written findings regarding the general plan and any development approved or proposed that is consistent with the General Plan (Public Resources Code, Section 29763.5):

- Consistent with the regional plan (Land Use and Resource Management Plan for the Primary Zone of the Delta).
- Will not result in wetland or riparian loss.
- Will not result in the degradation of water quality.
- Will not result in increased nonpoint source pollution.
- Will not result in the degradation or reduction of Pacific Flyway habitat.
- Will not result in reduced public access, provided the access does not infringe on private property rights.
- Will not expose the public to increased flood hazard.
- Will not adversely impact agricultural lands or increase the potential for vandalism, trespass, or the creation of public or private nuisances on public or private land.

- Will not result in the degradation or impairment of levee integrity.
- Will not adversely impact navigation.
- Will not result in any increased requirements or restrictions upon agricultural practices in the Primary Zone.

DESCRIPTION OF THE CITY OF OAKLEY:

The City of Oakley encompasses 8,064 acres. The City's Sphere of Influence boundary includes the City Limits and the planning area. The City is bounded by Highway 160 to the west, Big Break and Dutch Slough to the north, Jersey Island Road to the east, and Neroly Road to the south. Railroad tracks and Highway 4 bisect the City.

The General Plan also addressed proposed expansion areas covering an additional 2,700 acres, now within the Sphere of Influence. The expansion area includes an approved project (approved by Contra Costa County Board of Supervisors in 1993) known as Cypress Lakes located on the eastern portion of Hotchkiss Tract. The project authorized 1,300 dwelling units on 686 acres, plus a golf course.

To the north of the City is the new East Bay Regional Park District (EBRPD) Big Break Regional Shoreline. This new regional park includes substantial water covered habitat areas and a narrow shoreline area. Currently two public shoreline trails support this site. EBRPD will soon construct the first phase of improvements that include an observation pier and parking lot/staging area.

The areas along the shoreline of the City are designated Commercial Recreation (existing marinas), Commercial, Delta Recreation, and Public and Semi-Public.

There are several existing marinas located along the Oakley waterfront including Driftwood Marina, Driftwood Yacht Club, Lauritzen Yacht Harbor, and Big Break Marina.

The Public and Semi-Public area along the shoreline are lands belonging to Ironhouse Sanitary District. A portion of the site contains the physical plant used to process wastewater and the administrative buildings of the District. Lands to the east are pasturelands used for disposal of treated wastewater.

The 1,200-acre Dutch Slough project is located on lands designated for Delta Recreation. The Dutch Slough project is a non-profit and State of California project to restore habitat on 1,539 acres of grazing lands previously approved for development by Contra Costa County Board of Supervisors. The overall project will include new City parks and trails.

DESCRIPTION OF PRIMARY ZONE LANDS WITHIN THE CITY LIMITS:

The lands in the Primary Zone include a 200-foot wide band of water-covered lands adjacent to the shoreline. The purpose of including the water-covered areas in the City limits was to allow City review and approval of new and maintenance of existing water-

oriented structures, such as boat docks and fishing piers. Existing EBRPD facilities include the Antioch/Oakley Regional Shoreline (fishing and picnic facilities at the base of the Antioch Bridge) and the new Big Break Regional Shoreline (partially constructed).

PREVIOUS GENERAL PLAN (CONTRA COSTA COUNTY):

Prior to creation of the City of Oakley, these lands were under the jurisdiction of Contra Costa County. The shoreline areas (Primary Zone) within the City of Oakley are essentially the same as the County's earlier designations.

In the Secondary Zone, the area now slated for ecosystem restoration, the Dutch Slough project, was slated for mixed use development by the County (M8-Mixed Use, Oakley). The area also known as the Cypress Corridor was described in the County's 1991 General Plan. The 1991 General Plan identified low and high density areas for single family residential, multi-family residential commercial, office, commercial recreation, parks and recreation, and public and semi-public lands.

The County approved development agreements with the three Dutch Slough property owners in 1997. The agreements covered 1,540 acres.

Lands east of the City limits on Hotchkiss Tract were designated Limited Agriculture with an overlay of Off Island Bonus Area. This area was part of a two-island area (Bethel Island and Hotchkiss Tract) described in the County's 1991 General Plan (Bethel Island Area). The concept for Hotchkiss Tract was to limit development to a total of 3,000 (91 units already approved) primarily recreation oriented units in the "off-island area". These land use policies are also included in the "reconsolidated" General Plan adopted in July 1996.

The City's General Plan identifies residential build-out potential in the Expansion Area as 3,162 units on 1,018 acres (Table 2-4, page 2-34). This is very similar to, but slightly higher than, the number of units identified in the County's 1991 and 1996 General Plans.

PREVIOUS ZONING (CONTRA COSTA COUNTY):

Under Contra Costa County, the Delta Recreation and Resource was designated for 20-acre minimum parcels. The Agriculture lands were largely zoned A-2, General Agriculture (5-acre minimum parcel size) and A-3, Heavy Agriculture (10-acre minimum parcel size).

CITY OF OAKLEY GENERAL PLAN POLICIES REGARDING THE PRIMARY ZONE OF THE DELTA:

LAND USE ELEMENT:

General Land Use:

2.1.5 Preserve open space areas, of varying scales and uses, both within development projects and at the City's boundary.

2.1.6: Ensure a strong physical connection to the Delta and the waterfront, including convenient public access and recreational opportunities.

2.1.8: Discourage development that results in land use incompatibility. Specifically require buffers between uses where appropriate and discourage locating sensitive uses (residential) adjacent to existing potentially objectionable uses or located potentially objectionable uses adjacent to sensitive uses.

Residential:

2.2.4: Promote, in areas where different land uses abut one another, land use compatibility by utilizing buffering techniques such as landscaping, setbacks, screening and, where necessary, construction of sound walls.

2.2.5: Promote the transition from higher density centers to lower densities at City boundaries. Where high density residential is directly adjacent to low density residential or agricultural uses, buffers should be provided.

2.2.12: Restrict or require increased setbacks for residential development proposed and adjacent to industrially or agriculturally designated or developed land to minimize conflicts.

2.2.14: Encourage naming of subdivisions and streets to reflect the community's geography and history, and its relationship to the Delta.

Open Space:

2.6.1: Provide public access to the Delta and the waterfront wherever appropriate and feasible. Typically, such access should be unobstructed to the public by foot or bicycle and where appropriate, by horse, automobile and/or boat.

2.6.2: Preserve, enhance and/or restore selected existing natural habitat areas, as feasible.

2.6.3: Create new wildlife habitat areas in appropriate locations, which may serve multiple purposes of natural resource preservation and passive recreation, as feasible.

2.6.4: All public recreational areas and facilities shall be accessible by a publicly maintained road.

2.6.8 Dock and marina projects may, if determined appropriate by the City, be allowed within Delta Recreation areas based upon the following criteria:

- a. Proposed locations should be along waterways having an adequate channel width as defined by the State Harbors and Navigation Code.
- b. Adequate public vehicular access and parking must be provided.
- c. Off-site improvement, such as required access roads, must be capable of supporting the proposed development and subsequent use.
- d. Adequate on-site sewage disposal must be provided.
- e. Adequate access for emergency response vehicles must be available.
- f. Such uses should minimize the conflict with adjacent agricultural uses or natural resources.
- g. Adequate potable water must be provided, as appropriate, for all recreational uses.
- h. Encourage public access to the delta and shoreline in conjunction with new dock and marina projects. Such access may be achieved upon the subject property or through cooperative efforts with adjacent property owners.

Trails:

2.7.1: Promote a comprehensive trail program throughout the Oakley community and give preference to developments that incorporate the design of the trails, including trails of neighboring communities where feasible, and associated open space into their design.

Land Use Designations:

(DR) Delta Recreation (page 2-18): This land use designation encompasses lowlands of the San Joaquin Delta along the City's northern edge. Most of the land designated DR is currently within the 100 year flood plan as mapped by FEMA which means the area is subject to periodic flooding.

Due to the proximity of the Delta, these lands have substantial recreational value and offer important opportunities for public access to the Oakley waterfront, including parklands and trails offering public access. Agriculture and wildlife habitat are also considered appropriate uses of these areas. Additional uses that may at the City's discretion, be allowed within this designation include but are not limited to marinas, shooting ranges, duck and other hunting clubs, campgrounds, golf courses and other outdoor recreation complexes.

Conditional uses allowed in the DR land use designation shall be limited to those low- and medium-intensity establishments that do not rely on urban levels of service or infrastructure, and which will not draw large concentrations of people to flood-prone areas. Specific regulations for development within the DR designation are provided within the Goals, Policies and Programs section of this element.

Note: Table 2-2 (page 2-32) shows 1,445 acres in the DR Land Use designation; 12 acres are developed.

Delta Protection Commission (page 2-36):

The northern boundary of the City of Oakley is located along the eastern edge of the San Joann Delta, and the City's boundary extends approximately 200 feet into the area defined as the Primary Zone of the Delta. This area is subject to the jurisdiction of the Delta Protection Commission, and that body will review the Oakley 2020 General Plan and determine whether the General Plan is consistent with the Land Use and Resource Management Plan for the Primary Zone of the Delta.

Once the Delta Protection Commission has found the Oakley General Plan is consistent with their Land Use and Resource Management Plan, the City will be responsible for ensuring that the City of Oakley land uses within the Primary Zone are consistent with the adopted Oakley General Plan. If outside parties believe the City's actions related to the Primary Zone are not consistent with the adopted General Plan for the provisions of the Land Use and Resource Management Plan for the Primary Zone of the Delta, then such parties may appeal the City's actions to the Delta Protection Commission.

The City of Oakley has consulted with staff of the Delta Protection Commission to ensure that the Oakley 2020 General Plan is consistent with the provisions of the Land Use and Resource Management Plan for the Primary Zone of the Delta.

OPEN SPACE AND CONSERVATION ELEMENT:

Agriculture:

6.1.E: Continue to implement (and refine as necessary) a Right to Farm Ordinance, which protects ranchers and farmers within an historically agricultural district from nuisance complaints and unreasonable restrictions and regulations on farm structures or farming practices.

Biological Resources:

6.3.4: Encourage preservation and enhancement of the natural characteristics of the San Joaquin Delta and Dutch Slough in a manner that encourages public access.

6.3.5: Encourage preservation and enhancement of Delta wetlands, significant trees, natural vegetation, and wildlife populations.

6.3.6: Encourage preservation of portions of important wildlife habitats that would be disturbed by major development, particularly adjacent to the Delta.

Open Space Resources:

6.6.1: Encourage public access in multiple forms and improvements along the City's waterways, particularly the San Joaquin Delta, Marsh Creek and Dutch Slough.

6.6.2: Establish buffers from adjoining land uses to protect the natural open space resources in the City.

6.6.3: Encourage preservation and enhancement of the watershed, natural waterways, and areas important for the maintenance of natural vegetation and wildlife populations.

6.6.4: Where feasible and desirable, major open space components shall be combined and linked to form a visual and physical system in the City.

Scenic resources

6.7.1: Encourage preservation and enhancement of views of the Delta and Mount Diablo to the extent possible.

6.7.2: New development and redevelopment along the Delta, adjacent to Marsh Creek and throughout the City should take advantage of view opportunities and visual impacts to the waterway and Mount Diablo respectively.

PARKS AND RECREATION ELEMENT:

Special Purpose Facilities:

7.4.3 Manage shoreline and regional parks along Oakley's waterfront such as the Big Break and Dutch Slough shoreline in a manner that provides for appropriate public access and enhances the natural environment.

7.4.5: Support and encourage boat access and marinas. Consider additional marina facilities if proposed and appropriate.

7.4.6: Restrict or prohibit public access to certain open space and shoreline areas as needed for preservation purposes.

7.4.7: Minimize impact of future development in the shoreline area on the environmental health of natural systems.

7.4.9: Public park uses adjacent to the Delta should meet the following criteria:

- Related primarily to water activities
- Compatible with surrounding residential and commercial activities
- Available for year round use and enjoyment
- Provision for barrier-free public access and use for active and passive recreational and social enjoyment
- Balance between retention of natural resources and the creation of hard urban features

7.4.10: Connect special purpose facilities, shoreline and regional parks whenever possible by trails and paths. Use of trails by pedestrians, joggers, bikers or other non-motorized transportation, or equestrian activities shall be determined and posted as necessary.

7.4.11: Protect the visual accessibility of waterways by avoiding future development that creates visual barriers adjacent to or along the water's edge.

7.4.12: Promote the development or preservation of a private or public marina with boat launching and berthing facilities, fuel dock and waste pump-out stations, restrooms and showers, laundry facilities, bait/tackle/food store, day use, overnight camping and RV parking areas, fishing pier and restaurant.

Trails:

7.5.1: Construct trails to provide transportation, exercise, and connection to nature and leisure opportunities for Oakley residents.

Waterfront Recreation

...It should be noted also that the Delta region provides a variety of recreational opportunities including fishing, hunting, boating, camping, picnics, and viewing nature...

HEALTH AND SAFETY ELEMENT:

Flooding:

8.2.3: Buildings in urban development near the shoreline of the Delta and in flood prone areas shall be protected from flood dangers, including consideration of rising sea levels.

8.2.4: Habitable areas of structures near the shoreline of the Delta and in flood-prone areas shall be sited above the highest water level expected during the life of the project, or shall be protected for the expected life of the project by levees of an adequate design.

8.2.5: Rights of way for levees protecting inland areas from tidal flooding shall be sufficiently wide on the upland side to allow for future levee widening to support additional levee height.

Subsidence:

8.2.9: Development of lands subject to subsidence shall take into account and fully mitigate the potential impacts of flooding based on the best currently available techniques.

8.2.10: Any development approvals for areas subject to subsidence shall include conditions that account for the need to support Delta reclamation and irrigation districts, and to strengthen weak and low levees prior to development.

8.2.11: The pumping of substantial quantities of water, oil and gas in an area protected by levees is inconsistent with new major development approvals.

Levee, Dam Failure, or Tsunami:

8.2.12: ...Typically levees shall meet the standards of the U.S. Army Corps of Engineers, although "dry levees" that supplement existing levees may be allowed at the discretion of the City.

8.2.13: Levees shall be properly engineered and designed to ensure protection against earthquakes, tsunamis, and seiches.

ANALYSIS OF CITY OF OAKLEY GENERAL PLAN CONFORMANCE WITH REGIONAL PLAN:

The City of Oakley's General Plan conforms to the policies of the Commission's adopted Land Use and Resource Management Plan.

ANALYSIS OF ANY POTENTIALLY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS RESULTING FROM THE CITY OF OAKLEY GENERAL PLAN WHICH WERE NOT PREVIOUSLY ADDRESSED IN THE COMMISSION'S PLANNING DOCUMENTS:

The General Plan is in conformance with the Commission's Plan and Act. Because the City's General Plan is very similar to Contra Costa County's General Plan for the Primary Zone, there would be no potentially significant adverse environmental impacts resulting from the General Plan which were not previously addressed in the Commission's planning documents.

In addition, the City's General Plan for areas in the Secondary Zone within a broad band parallel to the shoreline and bounded by the BNSF Railroad right of way and the Contra Costa Canal, are also similar to Contra Costa County's 1991 and 1996 General Plans. Thus there would be no potentially significant adverse environmental impacts resulting from the City's General Plan which were not previously disclosed.

PRELIMINARY STAFF RECOMMENDATION:

The Delta Protection Act requires a 30-day notice and review period for public comment on the City's submittal. The 30-day comment period starts March 15 and ends April 15, 2004. Subject to any public comments, staff recommends the Commission adopt the draft resolution at its next meeting, tentatively scheduled for May 27, 2004.

RESOLUTION OF ADOPTION OF CITY OF OAKLEY SUBMITTAL

WHEREAS, the Delta Protection Commission adopted the "Land Use and Resource Management Plan for the Primary Zone of the Delta" (Plan) on February 23, 1995; and

WHEREAS, the Delta Protection Act requires that within 180 days of the adoption of the Plan all local governments shall submit to the Commission proposed amendments which will cause their general plans to be consistent with the criteria in Section 29763.5 of the Act with respect to land located within the Primary Zone; and

WHEREAS, the City of Oakley was newly incorporated on July 1, 1999 and adopted a new General Plan on December 16, 2002; and

WHEREAS, the Delta Protection Commission received a letter dated March 11, 2004 from Barry Hand, Community Development Director, including an analysis of the newly adopted General Plan in comparison to the Plan and an analysis stating there were no potentially significant adverse environmental impacts resulting from the newly adopted General Plan which were not previously addressed in the Commission's planning documents; and

WHEREAS, the Delta Protection Commission scheduled, noticed and held a public hearing at its meeting of March 25, 2004; and

WHEREAS, notice of the availability of the staff report and analysis, and of the thirty day comment period was provided to the public through a notice published on March 15, 2004 in the Stockton Record and the Contra Costa Times, both newspapers of general circulation in the Delta area; and

WHEREAS, before adopting a proposed general plan amendment, the Commission is required to make the following findings:

- (a) The General Plan, and any development approved or proposed that is consistent with the general plan, are consistent with the resource management plan.
- (b) The General Plan, and any development approved or proposed that is consistent with the plan, will not result in wetland or riparian loss.
- (c) The General Plan, and any development approved or proposed that is consistent with the plan, will not result in the degradation of water quality.
- (d) The General Plan, and any development approved or proposed that is consistent with the plan, will not result in increased non-point source pollution.
- (e) The General Plan, and any development approved or proposed that is consistent with the plan, will not result in the degradation or reduction of Pacific Flyway habitat.
- (f) The General Plan, and any development approved or proposed that is consistent with the plan, will not result in reduced public access, provided the access does not infringe on private property rights.

- (g) The General Plan, and any development approved or proposed that is consistent with the plan, will not expose the public to increased flood hazard.
- (h) The General Plan, and any development approved or proposed that is consistent with the plan, will not adversely impact agricultural lands or increase the potential for vandalism, trespass, or the creation of public or private nuisances on public or private land.
- (i) The General Plan, and any development approved or proposed that is consistent with the plan, will not result in the degradation or impairment of levee integrity.
- (j) The General Plan, and any development approved or proposed that is consistent with the plan, will not adversely impact navigation.
- (k) The General Plan, and any development approved or proposed that is consistent with the plan, will not result in any increased requirements or restrictions upon agricultural practices in the Primary Zone.

WHEREAS the Commission staff has consulted with all public agencies which have jurisdiction by law over the activities or resources affected by the newly adopted General Plan; and

WHEREAS, the Commission staff has prepared a written summary and response to all significant environmental points raised during the Commission's evaluation of the newly adopted General Plan; and

WHEREAS, the Commission has determined that the newly adopted general plan will not result in any potentially significant adverse environmental impacts resulting from the proposal which were not previously addressed in the Commission's planning documents; and

THEREFORE BE IT RESOLVED, the Delta Protection Commission has approved, by a majority vote of the Commission membership, the newly adopted general plan of the City of Oakley, under the findings described in Section 29763.5 of the Public Resources Code.

Patrick N. McCarty
Chairman

May 27, 2004